

03-551-CD  
KENNETH JOHN SELVAGE vs. COMM. OF PENNA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: KENNETH JOHN SELVAGE : Misc. Dkt. 11, *Page 533*

**ORDER**

NOW, this 11<sup>th</sup> day of July, 2003, upon consideration of request of Kenneth J. Selvage to proceed in forma pauperis on his Petition for Review in the Nature of a Complaint in Mandamus against the Clearfield County District attorney and State Police, it is the ORDER of this Court that said request shall be and is hereby denied.

By the Court,

President Judge

**FILED**

JUL 11 2003

William A. Shaw  
Prothonotary

**FILED**

O 3-48 BA  
JUL 11 2003  
1 cc to Karen Salvage  
1 cc to Robert Woodburn  
1 cc to Thomas Dickey Esq  
1 cc to Thomas Dickey Esq

William A. Shaw  
Prothonotary

Case #  
Date  
2003-551-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: KENNETH JOHN SELVAGE : Misc. Dkt. 11, page 533

**ORDER**

NOW, this 11<sup>th</sup> day of July, 2003, upon consideration of request of Kenneth J. Selvage to this Court to review the Clearfield County District Attorney's refusal to process his private complaint against Thomas M. Dickey, it is the ORDER of this Court that said request shall be and is hereby denied.

By the Court,  
\_\_\_\_\_  
President Judge

**FILED**

JUL 11 2003

William A. Shaw  
Prothonotary

**FILED**

0  
2:48 PM  
cc to attorney  
JUL 11 2003  
cc to William Shaw Jr. DA  
cc to Karen Slobodge  
10048 to Karen Slobodge  
PO Box 1000  
Hartford, PA

William A. Shaw  
Prothonotary

QSF-CRM-551-C  
JUL 12 2003  
SPL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION-LAW

KENNETH JOHN SELVAGI

Plaintiff

\*

V.

No. 03-551-CD

六

COMMONWEALTH OF PENNSYLVANIA,  
PAUL E. CHERRY, DISTRICT ATTORNEY,  
MICHAEL P. GREENE, STATE POLICE,  
Defendant

**Defendant**

六

HONORABLE JOHN K. REILLY, JR.  
PRESIDENT JUDGE

MOTION FOR RECONSIDERATION OF I.F.P.  
PETITION

Filed on behalf of:

KENNETH JOHN SELVAGE  
Plaintiff pro-se

KENNETH JOHN SELVAGE  
# DZ-4871  
P.O. BOX 1000  
HOUTZDALE, PA 16698-1000

**FILED**

AUG 20 2003 *Trege*  
m/1:00pm  
William A. Shaw  
Prothonotary  
no wing on r

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION-LAW

KENNETH JOHN SELVAGE, \*  
Plaintiff \*  
\*  
v. No. 03-551-CD  
\*  
COMMONWEALTH OF PENNSYLVANIA,  
PAUL E. CHERRY, DISTRICT ATTORNEY,  
MICHAEL P. GREENE, STATE POLICE,  
Defendant \*

MOTION FOR RECONSIDERATION OF I.F.P. PETITION

NOW COMES, KENNETH JOHN SELVAGE, Plaintiff pro-se, who, files the following in support of his motion and avers the following for review:

1. That on or about April 14, 2003, the Commonwealth Court of PA transferred the above case to this Court's jurisdiction for its review as verified by the Clerk of Courts Shaw, (see exhibit # 1).
2. That after an unjustified delay of three (3) months, this Court rendered its decision on Plaintiff's I.F.P. petition denying Plaintiff to proceed I.F.P., (see attached Order exhibit # 2).
3. That on July 21, 2003, Plaintiff wrote to Clerk Shaw requesting the cost of the filing of his Mandamus Complaint inwhich it was stated that the cost for the filing would be eighty five (\$85.00) dollars, that further, Plaintiff must contact the Sheriff's Department for the cost of service of said Complaint, (see exhibit # 3).
4. That on July 28, 2003, Plaintiff wrote to Sheriff Hawkins requesting the cost for service of the Mandamus Complaint upon the Defendant(s) inwhich it was stated that the cost would have to be in two (2) separate checks in the amount of seventy five (\$75.00) & twenty (\$20.00) dollars payable to the Sheriff's Office, (see exhibit # 4).
5. That Plaintiff verifies that he is indigent and his only source of income is low paying prison wages of thirty five (35¢) cents an hour and that Plaintiff has

been under continued incarceration for almost five (5) years, so, there is no way he can afford to pay the costs of the filing of his Mandamus Complaint; the service upon the Defendant's and the prosecution of this matter. Plaintiff would request this Court to reconsider all the facts to this matter, then, to GRANT his I.F.P. Petition so further legal action may be taken on his behalf.

MEMORANDUM OF LAW

That under Pa.R.Civ.P. Rule 240, In Forma Pauperis, Plaintiff states that this Court violated this Rule in two (2) separate incidents which are:

- a] Rule 240(3) which states: The court shall act promptly upon the petition and shall enter its order within twenty days from the date of the filing of the petition. If the petition is denied, in whole or in part, the court shall briefly state its reasons.
- b] This Court did not render its decision within the twenty day time period, and further, it did not give a brief statement for its reasons of its denial.

Under Rule 240(b) states: A party who is without financial resources to pay the costs of the litigation is entitled to proceed in forma pauperis.

Plaintiff is indigent and unable to pay the costs of the litigation of this case.

That the Higher Courts have repeatedly held that an I.F.P. petition should be denied only upon the fact finding process that the complaint is frivolous with no merit or if the indigent status of the Plaintiff is untrue. See NEITZKE V. WILLIAMS, 490 U.S. 319, 326, 109 S.Ct. 1827, 104 L.Ed.2d 338, 347 (1990); and see ROBINSON V. COM PA BOARD OF PROBATION AND PAROLE, 525 Pa. 505, 512, 582 A.2d 857, 860 (1990), defining the term "frivolous" as used in Pennsylvania Rule of Appellate Procedure 2744 as "an appeal which lacks any basis in law or fact.

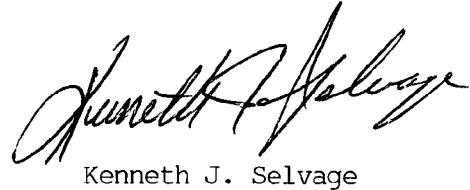
Plaintiff states that his complaint has positive merit in that the Commonwealth used perjured testimony to obtain a prima facie case against him and the only way for Plaintiff to prove this would be to obtain the legal documents requested through his mandamus complaint, and further, Plaintiff is indeed indigent.

Plaintiff avers that this Court erred in the denial of his I.F.P. petition, and would request the review/reconsideration of the record in this matter.

WHEREFORE, Plaintiff would request respectfully for this Honorable Court to grant the following relief forthwith:

- a] to review the record in this matter;
- b] to reconsider its denial of the original I.F.P. petition and grant him I.F.P. status in the above matter;
- c] to direct the Sheriff to serve the Mandamus Complaint upon the Defendant(s) forthwith; and
- d] to direct the Court Administrator to schedule this matter for a hearing on the merits of his Mandamus Complaint forthwith.

Respectfully,



Kenneth J. Selvage

Dated: August 19, 2003

William Shaw  
Prothonotary/Clerk of Courts  
County Courthouse  
P.O. Box 549  
Clearfield, PA 16830

April 21, 2003

COMMONWEALTH OF PENNSYLVANIA,  
Re: KENNETH JOHN SELVAGE V. PAUL E. CHERRY, DA, et al,  
COMMONWEALTH COURT No. 172 M.D. 2003

Dear Clerk Shaw:

I am directing this letter to your office in regards to the above-referenced matter respectfully requesting your attention to the following:

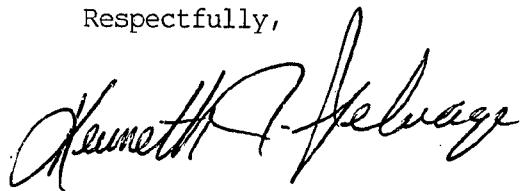
On March 17, 2003, the Commonwealth Court transferred the above matter to your office for disposition. I wrote to you on March 24, 2003, requesting your office to inform me as to what docket number this case was filed under so I may take further action, but, your office has failed and/or refused to respond to my correspondence.

~~WE RECEIVED THE RECORDS FROM COMMONWEALTH COURT ON 4-14-03~~

I am again requesting your office to advise me to what docket number my case was filed under. ~~YOUR IFP WAS SENT TO C/A FOR COURT DISPOSITION.~~

Thank you for your time and consideration, your prompt attention will be greatly appreciated.

Respectfully,



Kenneth J. Selvage  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

cc: file

Exhibit #1

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: KENNETH JOHN SELVAGE

Misc. Dkt. 11, *Page 533*

ORDER

NOW, this 11<sup>th</sup> day of July, 2003, upon consideration of request of Kenneth J. Selvage to proceed in forma pauperis on his Petition for Review in the Nature of a Complaint in Mandamus against the Clearfield County District attorney and State Police, it is the ORDER of this Court that said request shall be and is hereby denied.

BY THE COURT:

*/s/JOHN K. REILLY, JR.*

President Judge

I hereby certify this to be a true and attested copy of the original statement filed in this case.

JUL 22 2003

Attest.

*Will A. Shaw*  
Prothonotary/  
Clerk of Courts

FILED

JUL 11 2003

William A. Shaw  
Prothonotary

*Exhibit #2*

William Shaw  
Prothonotary/Clerk of Courts  
County Courthouse  
P.O. Box 549  
Clearfield, PA 16830

July 21, 2003

Re: KENNETH JOHN SELVAGE V. PAUL E. CHERRY, DA, et al., Commonwealth of PA

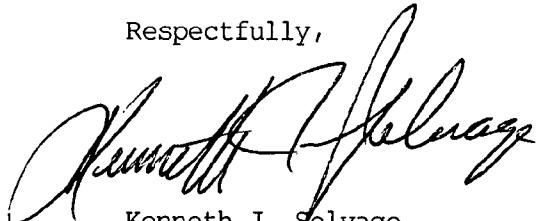
Dear Mr. Shaw:

I am in receipt of the Court's ORDER to the above IFP petition as to my Petition For Review in the Nature of a Complaint in Mandamus of July 11, 2003, in which Judge Reilly denied said petition. There was no docket number on said ORDER, only stated Misc. Dkt.

I am requesting your office to advise me as to what the total costs would be to have said petition filed with your office and for the Sheriff to serve copies on the Defendants?

Thank you for your time and kind consideration in this matter, your prompt attention will be greatly appreciated.

Respectfully,



Kenneth J. Selvage  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

cc: Senator Rick Santorum  
file

FILING FEE IN PROTHONOTARY'S OFFICE IS \$85.00

You will have to contact the Sheriff's Office for  
cost to serve defendant.

WAS

P.S. Your IFP. Docket # is 2003-551-CR

Exhibit # 3

Chester A. Hawkins  
Sheriff - Courthouse  
1 North Second Street, Suite 116  
Clearfield, PA 16830

July 28, 2003

Re: KENNETH JOHN SELVAGE V. PAUL E. CHERRY, DA, et al., COMMONWEALTH  
OF PENNSYLVANIA  
No. 2003-551-CD

Dear Sheriff Hawkins:

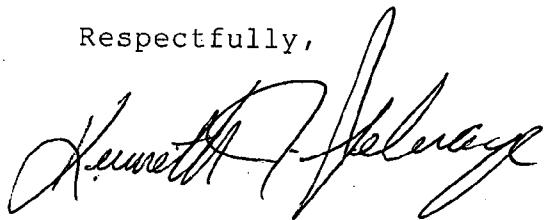
I am directing this letter to your office in regards to the above-referenced matter respectfully requesting your attention to the following information and concerns I have:

Enclosed, please find copies of my correspondence to and from Prothonotary Shaw as well as the Court Order in question.

I need to know the exact cost for your office to serve my complaint on the two (2) Defendants, DA Paul E. Cherry and State Trooper Michael P. Greene (Clearfield Barracks) before I pay to have my complaint filed with the County Court.

Thank you for your time and kind consideration in this matter, your prompt attention will be greatly appreciated.

Respectfully,



Kenneth J. Selvage  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

cc: PD Chris Pentz  
file

ADVANCE COST OF \$75.00 AND A SEPARATE CHECK  
FOR \$20.00. BOTH CHECKS MADE PAYABLE TO THE  
CLEARFIELD CO. SHERIFF. THE \$20.00 GOES TO A STATE  
FUND AND IS NOT RETURNED. WHAT IS NOT USED OUT OF  
THE \$75.00 IS REFUNDED.

 7/29/03

Exhibit # 4

V E R I F I C A T I O N

I, KENNETH JOHN SELVAGE, do hereby verify that the facts set forth in the foregoing document are true and correct to the best of his personal knowledge, information and belief, and any false statements made herein are made subject to the penalties of perjury, 18 Pa. C.S.A. §4904 of the Crimes Code, relating to unsworn falsification to authorities.

Dated: August 19, 2003



Kenneth J. Selvage

PROOF OF SERVICE

I, KENNETH JOHN SELVAGE, Plaintiff pro-se, hereby certifies that I am this date serving a copy of the foregoing document, "Motion for Reconsideration of I.F.P. Petition," upon the person(s) and in the manner indicated below:

Service by first class mail, postage pre-paid:

Paul E. Cherry, Esq.  
District Attorney  
Suite 210  
230 E. Market St.  
Clearfield, PA 16830

Trooper Michael P. Greene  
Troop C, Clearfield  
PSP Woodland Barracks  
147 Doe Hill Rd.  
Woodland, PA 16881



Kenneth J. Selvage  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

Dated: August 19, 2003

cc: file

**FILED**

AUG 20 2003

William A. Shaw  
Prothonotary

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

KENNETH JOHN SELVAGE,  
Petitioner

v.

2003- 551- co

COMMONWEALTH OF PENNSYLVANIA,  
DISTRICT ATTORNEY PAUL E.  
CHERRY et al.,

Respondents : No. 172 M.D. 2003

**FILED**

**PER CURIAM**

**ORDER**

APR 14 2003  
m/11; 50/m  
William A. Shaw  
Prothonotary/Clerk of Courts

NOW, March 17, 2003, upon consideration of petitioner's petition for review, and it appearing that petitioner has failed to name the Commonwealth government or an officer thereof so as to vest this court with original jurisdiction, 42 Pa. C.S. §761; Mickens v. Jeffes, 453 A.2d 1092 (Pa. Cmwlth. 1983); Opie v. Glasgow, Inc., 375 A.2d 396, 398 (Pa. Cmwlth. 1977), ~~this matter is transferred to the Court of Common Pleas of Clearfield County~~ 42 Pa. C.S. §5103.

The Chief Clerk shall transmit the record and certify a photocopy of the docket entries in this matter to the prothonotary of the Court of Common Pleas of Clearfield County.

**Certified from the Record**

MAR 18 2003  
and Order Exit



## Commonwealth Court of Pennsylvania

Charles R. Hostutler  
Deputy Prothonotary/Chief Clerk

April 8, 2003

Irvis Office Building, Room 624  
Harrisburg, PA 17120  
717-255-1650

TO:

RE: Selvage v. Cmwth et al  
No.172 MD 2003

Trial Court/Agency Dkt. Number:  
Trial Court/Agency Name:

Annexed hereto pursuant to Pennsylvania Rules of Appellate Procedure 2571 and 2572  
is the entire record for the above matter.

### Contents of Original Record:

Original Record Item	Filed Date	Description
----------------------	------------	-------------

Date of Remand of Record:

Enclosed is an additional copy of the certificate. Please acknowledge receipt by signing,  
dating, and returning the enclosed copy to the Prothonotary Office or the Chief Clerk's office.

  
Commonwealth Court Filing Office

  
\_\_\_\_\_  
Signature  
William A. Shaw  
Printed Name

\_\_\_\_\_  
4-14-03  
Date

**FILED**

APR 14 2003  
m/11:50 (m)  
William A. Shaw  
Prothonotary/Clerk of Courts

*Copy to Comm. Counc*

Docket Number: 172 MD 2003

Page 1 of 3

April 8, 2003



Kenneth John Selvage,  
Petitioner

v.  
Commonwealth of Pennsylvania,  
District Attorney Paul E. Cherry, and  
PSP TRP. Michael P. Greene,  
Respondent

FILED

APR 14 2003

m 111:50 L w

William A. Shaw

Prothonotary/Clerk of Courts

Initiating Document: Complaint

Case Status: Closed

March 17, 2003

Completed

Case Processing Status:

Journal Number:

Case Category: Miscellaneous

CaseType:

Inmate Petition for Review

Consolidated Docket Nos.:

Related Docket Nos.:

## COUNSEL INFORMATION

**Petitioner** Selvage, Kenneth John

Pro Se: ProSe

Appoint Counsel Status:

IFP Status: Yes

Attorney: Selvage, Kenneth John

Law Firm:

Bar No.:

Address: DZ-4871, SCI Houtzdale

P. O. Box 1000

Houtzdale, PA 16698-1000

Phone No.:

Fax No.:

Certified from the Record

APR 08 2003

and Order Exit

Receive Mail: Yes

**Respondent** Cherry, Paul E.

Pro Se:

Appoint Counsel Status:

IFP Status:

Attorney: Cherry, Paul E.

Law Firm:

Bar No.:

Address: Office of District Attorney

230 East Market Street

Clearfield, PA 16830

Phone No.: (814)765-2641

Fax No.:

Docket Number: 172 MD 2003

Page 2 of 3

April 8, 2003



Receive Mail: Yes

Respondent Greene, Michael P.

Pro Se:

Appoint Counsel Status:

IFP Status:

Attorney: Greene, Michael P.

Bar No.:

Law Firm:

Address: Troop C, Clearfield, PSP Woodland Barracks

147 Doe Hill Road

Woodland, PA 16881

Phone No.:

Fax No.:

Receive Mail: Yes

---

TRIAL COURT/AGENCY INFORMATION

Court Below:

County:

Division:

Date of OrderAppealed From:

Judicial District:

Date Documents Received: March 12, 2003

Date Notice of Appeal Filed:

Order Type:

Judge:

Lower Court Docket No.:

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ORIGINAL RECORD CONTENTS

Original Record Item

Filed Date

Content/Description

Date of Remand of Record:

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BRIEFING SCHEDULE

Docket Number: 172 MD 2003

Page 3 of 3

April 8, 2003



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**DOCKET ENTRIES**

Filed Date	Docket Entry/Document Name	Exit Date	Party Type	Filed By
March 12, 2003	Complaint Filed		Petitioner	Selvage, Kenneth John
March 12, 2003	Application to Proceed In Forma Pauperis		Petitioner	Selvage, Kenneth John
March 17, 2003	Transfer	3/18/2003		Per Curiam
	The matter is transferred to the Court of Common Pleas of Clearfield County.			
April 8, 2003	Transfer to Court of Common Pleas Clearfield County			Commonwealth Court Filing Office

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**SESSION INFORMATION**

Journal Number:

Consideration Type:

Date Listed/Submitted:

---

**DISPOSITION INFORMATION**

Related Journal Number:		Judgment Date:	3/17/2003
Disposition Category:	Disposed Before Decision	Disposition Author:	Per Curiam
Disposition:	Transfer	Disposition Date:	3/17/2003

Dispositional Comments: The matter is transferred to the Court of Common Pleas of Clearfield County.

---

Dispositional Filing: Author:  
Filed Date:

---

**REARGUMENT/RECONSIDERATION/REMITTAL**

Reargument/Reconsideration Filed Date:

Reargument Disposition: Date:

Record Remitted:

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

KENNETH JOHN SELVAGE,  
Petitioner

v.

CCWY

2003- 551- CQ

COMMONWEALTH OF PENNSYLVANIA,  
DISTRICT ATTORNEY PAUL E.  
CHERRY et al.,

Respondents :

No. 172 M.D. 2003

CCWY

FILED

PER CURIAM

REURNISH FEB

C/A S-15-03

petition for r

Commonweal

original jurisc

Cmwlth. 1983); Opie v. Glasgow, Inc., 375 A.2d 396, 398 (Pa. Cmwlth.

1977), this matter is transferred to the Court of Common Pleas of Clearfield

County. 42 Pa. C.S. §5103.

APR 14 2003  
m/11/50/03  
William A. Shaw  
Prothonotary/Clerk of Courts

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The Chief Clerk shall transmit the record and certify a photocopy of the docket entries in this matter to the prothonotary of the Court of Common Pleas of Clearfield County.

Certified from the Record

MAR 18 2003  
and Order Exit

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

KENNETH JOHN SELVAGE,

Plaintiff

v.

COMMONWEALTH OF PENNSYLVANIA,

DISTRICT ATTORNEY PAUL E. CHERRY, and  
PSP TRP. MICHAEL P. GREENE,

Respondent

\*

\* No. 172 MD 2003

\*

2003-551-CD

\*

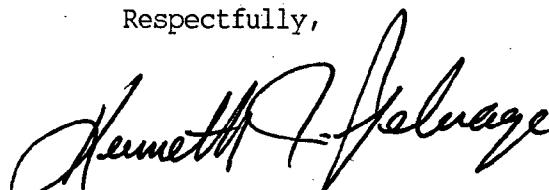
PETITION TO PROCEED IN FORMA PAUPERIS

NOW COMES, KENNETH JOHN SELVAGE, Petitioner/Plaintiff pro-se, who says:

1. That as demonstrated by the attached affidavit and verification, Plaintiff is indigent and cannot afford the costs associated with the filing, litigating or employing of counsel to litigate the Petition for Review in the Nature of a Complaint in Mandamus.
2. That Plaintiff submits this civil action in good faith to compel Respondent to perform a Mandatory Administrative Duty, namely, to supply critical evidence in his criminal case(s).
3. That Plaintiff is unlettered in the law, has no means of paying for this civil action or to have the complaint served on Respondent(s) and thus will suffer irreparable injury if this petition is denied.

WHEREFORE, for the foregoing reasons this Honorable Court is hereby requested respectfully to grant this Petition and such other relief as would be right, just and equitable.

Respectfully,



Kenneth J. Selvage  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

FILED

APR 14 2003

William A. Shaw  
Prothonotary/Clerk of Courts

Dated: 3-10-03

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

KENNETH JOHN SELVAGE,

Plaintiff

v.

\*

\* No.

COMMONWEALTH OF PENNSYLVANIA,  
DISTRICT ATTORNEY PAUL E. CHERRY, and  
PSP TRP. MICHAEL P. GREENE,

Respondent

\*

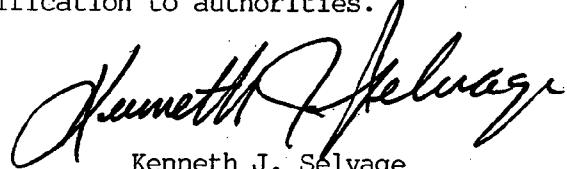
\*

\*

AFFIDAVIT IN SUPPORT OF PETITION TO PROCEED I.F.P.

I, KENNETH JOHN SELVAGE, do hereby state under the penalty of perjury that:

1. I am the Plaintiff of adult age presently confined within the State Correctional Institution at Houtzdale;
2. The information contained in the foregoing annexed petition to proceed I.F.P. is true and correct to the best of my personal knowledge, information and belief;
3. I have no income or means of income from any source to include but not limited to social security, pensions, annuities, rents, support, veterans benefits, stocks, bonds or other;
4. I own no property, home, boat, automobile, money and I have no checking, savings or other accounts containing money or other sources of money or negotiable instruments;
5. I have no person to whom I could borrow the funds needed to file, litigate or employ counsel for litigating the civil action complaint in Mandamus;
6. I do realize I have a continuing obligation to advise the Court of any changes in my financial condition; and
7. I do realize this affidavit is made subject to the penalties of title 18 Section 4904, relating to unsworn falsification to authorities.



Kenneth J. Selvage

# DZ-4871

P.O. Box 1000

Houtzdale, PA 16698-1000

Dated: 3/10/03

V E R I F I C A T I O N

I, KENNETH JOHN SELVAGE, Plaintiff pro-se, do hereby verify that the facts set forth in the foregoing Petition to Proceed I.F.P. and Affidavit are true and correct to the best of my knowledge, information and belief, and any false statements made herein are made subject to the penalties of perjury 18 Pa. C.S.A. Section 4904 of the Crimes Code, relating to unsworn falsification to authorities.

Dated: 3-10-63



Kenneth J. Selvage  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

cc: file

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

KENNETH JOHN SELVAGE,	*
Plaintiff	
V.	* No.
COMMONWEALTH OF PENNSYLVANIA,	*
DISTRICT ATTORNEY PAUL E. CHERRY, and	*
PSP TRP. MICHAEL P. GREENE,	*
Respondent	*

O R D E R

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2003, upon careful consideration  
of Plaintiff's within "Petition to Proceed I.F.P.."

IT IS HEREBY ORDERED, that the Petition is GRANTED. IT IS FURTHER ORDERED  
and DIRECTED, that the Sheriff of \_\_\_\_\_ County shall serve the  
complaint on Respondent(s) as well as any subsequent subpoena's Plaintiff may  
request in accordance with the Pennsylvania Rules of Discovery.

BY THE COURT,

---

JUDGE

RECEIVED & FILED  
COMMONWEALTH COURT  
OF PENNSYLVANIA

2003 MAR 12 A 8:57

RETURNED FROM  
C/R 5-15-03  
WITH OTHER UNSTAMPED  
MAIL

FILED  
APR 14 2003  
M 11:50 AM  
William A. Shaw  
Prothonotary/Clerk of Courts  
RECEIVED FROM  
COMM. COURT.  
NO COPIES

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

KENNETH JOHN SELVAGE,  
Plaintiff  
v.  
COMMONWEALTH OF PENNSYLVANIA,  
DISTRICT ATTORNEY PAUL E. CHERRY, and  
PSP TRP. MICHAEL P. GREENE,  
Respondent

\*  
\* No. 172 MD 2003  
\* 2003-551-C

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the Claims set forth against you in the following pages, YOU MUST enter a written appearance personally or by an attorney, and file in writing your defense or objections to those claims within twenty (20) days after service of this notice and attached Petition for Review in the Nature of a Complaint in Mandamus. YOU ARE WARNED, that if you fail to do so the case will proceed without you and a judgment will be entered against you without further notice. You will lose rights, privileges and immunities important to you if you fail to take the above action.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU CANNOT AFFORD ONE GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET HELP.

David S. Meholic  
Court Administrator  
County Courthouse  
230 E. Market Street  
Clearfield, PA 16830

(814) 765-2461, ext. 5982



Kenneth J. Selvage  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

KENNETH JOHN SELVAGE, \*  
Plaintiff  
v. \* No.  
\*  
COMMONWEALTH OF PENNSYLVANIA,  
DISTRICT ATTORNEY PAUL E. CHERRY, and  
PSP TRP. MICHAEL P. GREENE,  
\*  
Respondent  
\*  
\*

PETITION FOR REVIEW  
IN THE NATURE OF A COMPLAINT IN MANDAMUS

NOW COMES, KENNETH JOHN SELVAGE, Plaintiff, acting as pro-se for himself, who, avers the following in support thereof:

INTRODUCTION

1. Plaintiff commences this civil action complaint in mandamus to compel Respondent to perform a mandatory administrative act, to supply critical evidence in the criminal case(s) at common pleas docket numbers 99-727-CRA & 00-424-CRA, that was not supplied by the Commonwealth in the original Discovery Package nor has the Commonwealth complied with the numerous requests made by defense counsel and this Plaintiff for said evidence.

JURISDICTION

2. This Court has original jurisdiction over this civil action pursuant to 42 Pa. C.S.A. 761, and therefore the authority to grant all relief found right, just and equitable.

PARTIES

3. Plaintiff, KENNETH JOHN SELVAGE, is a citizen of the United States and of the Commonwealth of Pennsylvania with his present address being: No. DZ-4871, P.O. Box 1000, Houtzdale, PA 16698-1000, SCI Houtzdale.

4. Respondent, DA PAUL E. CHERRY, is a citizen of the United States and of the Commonwealth of Pennsylvania, who is presently holding the title of District Attorney of Clearfield County discharging the judicial and administrative functions of that office, with his present address being: District Attorney's Office, Suite

210, 230 East Market Street, Clearfield, PA 16830.

5. Respondent, PSP TRP. MICHAEL P. GREENE, is a citizen of the United States and of the Commonwealth of Pennsylvania, who is presently holding the title of a Pennsylvania State Police Officer of Clearfield County discharging the judicial and administrative functions of that office, with his present address being: PA State Police, Woodland Barracks, 147 Doe Hill Road, Woodland, PA 16881.

STATEMENT OF FACTS

6. That the crimes of Insurance Fraud/Conspiracy to Commit Insurance Fraud and Conspiracy to Commit Arson (99-727-CRA & 00-424-CRA) was brought against this Plaintiff on or about September 17, 1999, due to the statements and testimony made by Teresa Gates, who, is a co-defendant in these crimes, where Ms. Gates claimed that the Plaintiff master-minded the entire crime and was present to receive a share of the insurance money when she received then cashed the insurance check.

7. That throughout the entire litigation of this matter Ms. Gates repeatedly made false statements to the authorities by lying and changing her story as evidenced in the Discovery Package Plaintiff received from defense attorney Mason.

8. That during the Preliminary Hearing of June 16, 2000, to case 00-424-CRA, the Commonwealth produced two (2) witnesses to testify against Plaintiff: (1) Teresa Lynn Gates; and (2) Robert Scott Martin. (note: Martin took the 5th amendment and refused to testify for the Commonwealth).

9. That Commonwealth witness, Teresa Lynn Gates, testified under OATH that Plaintiff in fact conspired to commit the crimes of Insurance Fraud/Conspiracy to Commit Insurance Fraud and Conspiracy to Commit Arson, also, that when she cashed the insurance check that: "Kenny was present when I cashed the check, standing there with his hand out wanting a share of the insurance money for his part in the crime." This testimony was cassette recorded by Asst. DA Bill Shaw on 6/16/00.

10. That Plaintiff asserts that he was under incarceration at the Cambria County Prison, Ebensburg, PA, from September 21, 1998 thru December 11, 1998.

11. That Plaintiff asserts that Teresa Lynn Gates, co-defendant, received and cashed said insurance check during this period of incarceration, which, therefore, she would have committed perjury upon her testimony that Plaintiff was present when she received and cashed the check, and further, that she lied in all other statements to the authorities in regards to any involvement by Plaintiff in said crimes.

12. That Plaintiff and prior trial counsel Mason as well as PCRA counsel Dickey

has repeatedly requested a copy of the insurance check issued to Teresa Gates by Erie Insurance Exchange Company, to be supplied to them by the Commonwealth, but, these requests have never been complied with, (see exhibit # 1).

13. Plaintiff filed a Petition for Writ of Mandamus against First Assistant DA William Shaw with the Common Pleas Court in Clearfield to compel the DA to supply the Plaintiff with copy of the insurance check issued to Teresa Gates as well as a copy of the Preliminary Hearing transcripts in order to prove innocence of said crimes and the perjured testimony by Commonwealth witness, but, the Court dismissed said Mandamus filed at No. 02-1277-CD, stating that it was satisfied that the check is not in possession of the District Attorney's Office, (see exhibit # 2).

14. Plaintiff wrote a letter to the Commander of the Clearfield PSP requesting their office to supply Plaintiff with a copy of the insurance check in possession at the PSP Barracks in Evidence Room/Property Record No. C3-4967A, by letter dated: September 24, 2002, (see exhibit # 3), but, the PSP failed to respond.

15. Plaintiff filed a Petition for Writ of Mandamus against PSP Sgt. Maynard H. Gray and Trp. Michael P. Greene with the Common Pleas Court in Clearfield to compel the Clearfield PSP to supply the Plaintiff with a copy of the insurance check issued to Teresa Gates, but, the Court dismissed the Mandamus based on a bogus excuse/reason that Plaintiff failed to serve the Court with a copy of the Complaint, (see exhibit # 4), when in fact, Plaintiff served the original and three (3) copies to the Clerk of Courts for filing, and further, served six (6) other copies by a Proof of Service with Judge Reilly included. Plaintiff asserts that this was a ploy by the Court to further delay these proceedings, No. 02-1904-CD.

16. Plaintiff filed a Private Criminal Complaint against Teresa Lynn Gates with the Clearfield County District Attorney's Office, Paul E. Cherry, under Pa.R.Crim.P. Rule 506, on or about December 19, 2002, for perjury. Said Complaint was dismissed due to the fact that the DA needs the Preliminary Hearing transcripts to prove if said crime of perjury was committed by Teresa Gates, (see exhibit # 5), where it is evident by DA Cherry's letter that the insurance check must prove that Plaintiff was under incarceration at the time in question and the transcripts are needed to prove my case against Teresa Gates, but, the Clearfield Court refuses to address this matter, (see exhibit # 6).

17. Plaintiff asserts that not only would this critical evidence prove his innocence to alledged crimes, but, would also prove that the Commonwealth's key witness indeed lied against Plaintiff in providing the authorities with false information, and, committed perjury **under oath** upon her testimony against Plaintiff at the

Preliminary Hearing in order to shift the blame and/or responsibility of said crime(s) upon the Plaintiff so she could receive a much lesser sentence for same.

18. Plaintiff is entitled to this critical evidence and/or information under **Pa.R.Crim.P. Rule 573 (A),(B),(D),(E) and (F)**.

19. The prosecution's Brady obligation extends to exculpatory evidence in the files of the police agencies of the same government bringing the prosecution, abrogating, **COMMONWEALTH V. GRIBBLE**, 550 Pa. 62, 703 A.2d 746 (2001).

19. In **BRADY V. MARYLAND**, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963), the United States Supreme Court held "that suppression by the prosecutor of evidence favorable to an accused upon a request violated due process where the evidence is material either to guilt or punishment, irrespective of good faith or bad faith of the prosecution." Id. at 87, 83 S.Ct. 1196. Furthermore, "[w]hen the 'reliability of a given witness may well be determinative of guilt or innocence,' nondisclosure of evidence affecting credibility falls within this general rule." **GIGLIO V. UNITED STATES**, 405 U.S. 150, 154, 92 S.Ct. 763, 766, 31 L.Ed.2d 104 (1972), quoting **NAPUE V. ILLINOIS**, 360 U.S. 264, 269, 79 S.Ct. 1173, 1177, 3 L.Ed.2d 1217 (1959).

20. A criminal defendant is entitled to know about any information that may effect the reliability of the witness against him. **COMMONWEALTH V. MEJIA-ARIAS**, 734 A.2d 870 (Pa.Super.1999).

21. Trial Court may grant discovery request for disclosure of information if party requesting information shows how disclosure would benefit his case and how it is material. **COMMONWEALTH V. MILLER**, 765 A.2d 1151 (Pa.Super.2001). See also **COMMONWEALTH V. JONES**, 637 A.2d 1001 (Pa.Super.1994).

22. Pursuant to Rule 573(B)(2), the court may order the disclosure of any evidence mandated by Rule 573, and may further order the disclosure of any other evidence if it establishes "that its disclosure would be in the interests of justice." E.g., **COMMONWEALTH V. SCHWARTZ**, 419 Pa.Super. 251, 615 A.2d 350 (1992); **COMMONWEALTH V. NOVASKA**, 414 Pa.Super. 21, 606 A.2d 477 (1992), evidence is always relevant and material to defense, for purposes of discovery request, if it tends to show that specific crime was committed by someone else, **NOVASKA**, Id.

23. Defendant seeking relief from a discovery violation must demonstrate prejudice. **COMMONWEALTH V. COUNTERMAN**, 120 S.Ct. 97, 528 U.S. 836, 145 L.Ed.2d 82 (Pa. 1998); **COMMONWEALTH V. SMALL**, 741 A.2d 666 (Pa.1999).

24. Testimony against defendant by co-conspirators pursuant to plea agreements stemmed from corrupt, polluted sources and, therefore, had to be carefully scruti-

nized by fact finder. **COMMONWEALTH V. GONCE**, 466 A.2d 1039 (Pa.Super.1983); see also **COMMONWEALTH V. BETZ**, 644 A.2d 600 (Pa.Super.1995); **COMMONWEALTH V. TODT**, 464 A.2d 1226 (Pa.Super.1983).

25. This critical evidence will prove that Plaintiff was indeed under incarceration when insurance check was cashed; that he did not conspire to commit the crimes with which are charged and did not receive a share of the insurance money. It will further prove that the Commonwealth's key witness lied and committed perjury upon her statements to authorities, and her under oath testimony at the Preliminary Hearing, in order to shift the blame and or responsibility upon the Plaintiff so she would receive a much lesser sentence as part of her plea agreement for probation, which in turn, prejudiced this Plaintiff by receiving an unjustified sentence for same as he is an innocent individual.

26. Appellant/Defendant has the burden of demonstrating that the requested discovery information is material, favorable to appellant, and "within the possession or control of the attorney for the Commonwealth." **COMMONWEALTH V. JONES**, 432 Pa.Super. 97, 637 A.2d 1001, 1004 (1994).

27. Plaintiff states that the requested discovery material should have been part of the original Discovery Package supplied to the Commonwealth by the Clearfield PA State Police where the Commonwealth's attorney has control over the discovery material obtained by the police agencies of their County, and said information supplied to the defense, but, the refusal of the Commonwealth and PSP to supply the Plaintiff with said discovery material has caused him prejudice because without said information, Plaintiff is unable to prove his innocence or lack of involvement in said crime(s). Further, Plaintiff would not have pleaded guilty if he would of had access to said information which was indeed evidenced by the testimony at PCRA hearing of 4/16/02 of defense attorney Mason, who, testified that it was strongly requested by Plaintiff for his office to obtain said information to support his defense, but, he was ineffective for his failure to abide by that request, also, that the Commonwealth never supplied him with said information.

28. Plaintiff further asserts that under the circumstances of this case, that the Commonwealth's attorney knowingly used the perjured testimony of their key witness to acquire a conviction in violation of the Due Process of the Constitution in that it knew that Plaintiff was under incarceration in Cambria County during the time period in question (9/21/98 - 12/11/98) due to the fact that it filed a Petition to Revoke Bail during that period of incarceration to case(s) 98-550 & 554-CRA based on the Plaintiff's violation of Bail for obtaining new criminal charges in Cambria County,

(see exhibit # 7). Also, defense counsel Mason argued this fact of incarceration at the Preliminary Hearing and the Commonwealth's attorney denied such knowledge as did the key witness.

29. A State [Commonwealth] denies a criminal defendant due process of law when it knowingly uses perjured testimony, or fabricated evidence (such as testimony) in order to acquire/obtain a conviction, in violation of the Fourteenth Amendment's Due Process Clause of the Constitution of the United States. **ROBINSON V. ARVONIO**, 27 F. 3d 877 (3rd Cir.1994); **LAMBERT V. BLACKWELL**, 962 F.Supp. 1521 (E.D.Pa.1997).

30. The importance of **NAPUE V. ILLINOIS**, 360 U.S. 264, 79 S.Ct. 1173, 31 L.Ed. 2d 1217 (1959); where the Supreme Court found that "the principle that a State may not knowingly use false evidence, including false testimony to obtain a tainted conviction, implicit in any concept of ordered liberty, does not cease to apply merely because the false testimony goes only to the credibility of the witness." The Court found that: "It is of no consequence that the falsehood bore upon that witness' credibility, rather than directly upon defendant's guilt (a lie is a lie) no matter what its subject, and if it is in any way relevant to the case, the district attorney has the responsibility and duty to correct what he knows to be false and elicit the truth....." That the district attorney's silence was not the result of guile or a desire to prejudice matters little, for its impact was the same, preventing as it did, a trial/hearing that could in any real sense be termed fair.

31. The District Attorney is the one who shall sign all bills of indictments and/or informations, and conduct in court all criminal and other prosecutions, in the name of the Commonwealth. In the performance of his duties, The District Attorney is a quasi-judicial officer with the duty to seek justice, not just convictions. **COMMONWEALTH V. PFAFF**, 477 Pa. 461, 384 A.2d 1179 (1978). He is obligated to perform this task intelligently and impartially. **COMMONWEALTH V. WIGGINS**, 239 Pa.Super. 256, 361 A.2d 750 (1976).

32. As in the case at bar, the Commonwealth's attorney knowingly used perjured testimony against this Plaintiff at the Preliminary Hearing to have the charges bound over for trial because, without said perjured testimony, the Commonwealth would not have established a *prima facie* case and said charges would have been dismissed. This Plaintiff has claimed his innocence to these crimes during the entire investigation and litigation of this matter, and, in fact, has repeatedly requested said discovery information to prove said innocence. The Commonwealth has acted with prejudice and impartiality against this Plaintiff, and has denied his requests.

33. The law of Due Process stems from the provisions of the constitutions of

both the United States and Pennsylvania, which provide that no person shall be deprived of life, liberty or property without due process of the law; U.S. Const. Amend. 14; Pa. Const. Art. I, § 9 provides that in a criminal prosecution the accused has the right to be heard by himself or his attorney, to demand the nature and cause of the charges against him, to confront the witnesses against him, and to have compulsory process and a speedy public trial by jury. **COMMONWEALTH V. SNYDER**, 552 Pa. 44, 713 A.2d 596 (1998) citing **COMMONWEALTH V. LINDENMUTH**, 381 Pa.Super. 398, 554 A.2d 62 (1989).

34. As it relates to due process guarantees, the Pennsylvania Constitution affords no greater protection than the United States Constitution. Procedural due process requires, at its core, adequate notice, opportunity to be heard, and the chance to defend oneself before a fair and impartial tribunal having jurisdiction over the case. **COMMONWEALTH V. FAHY**, 558 Pa. 313, 737 A.2d 214 (1999).

35. As clearly addressed above, Plaintiff was denied his due process rights and has a clear right to obtain the requested information/evidence/material under Pa.R.Crim.P. Rule 573.

EVIDENCE REQUESTED

39. A copy of the Preliminary Hearing transcripts from the hearing held on June 16, 2000, in front of Honorable Magistrate Hawkins, magistrate No. CR-67-00; common pleas No. 00-424-CRA, which, was cassette recorded by First Assistant DA William Shaw; and

40. A copy of the insurance check issued to Teresa Lynn Gates by Erie Insurance Exchange Company, with verification as to the date the check was issued then subsequently cashed, which, is in possession of the Clearfield PSP.

COUNT ONE

41. Plaintiff realleges paragraphs 1 thru 40 and states;

42. That Respondent(s) have an administrative duty under Pa.R.Crim.P. Rule 573 to supply the Plaintiff with the requested evidence to support his defense and/or innocence as part of the Discovery in this matter.

COUNT TWO

43. Plaintiff realleges paragraphs 1 thru 42 and states;

44. Respondent(s) failure and subsequent refusal to perform this above-refer-

enced administrative duty has caused and continues to cause Plaintiff irreparable injury thus permitting a recovery of damages pursuant to 42 Pa. C.S.A. Section 8303.

PLAINTIFF'S INTERESTS

45. Plaintiff realleges paragraphs 1 thru 44 and states;
46. That Plaintiff does have an interest in the performance of Respondent's duty because the failure to supply said critical evidence is keeping an innocent individual under incarceration; has cost him fines, costs and restitution; and has permitted the crime of perjury to go unpunished by Teresa Lynn Gates.

OTHER ADEQUATE REMEDIES

47. Plaintiff realleges paragraphs 1 thru 46 and states;
48. That Plaintiff has no other adequate remedy in which to compel Respondent's to perform this mandatory administrative duty. Plaintiff has already attempted to adjudicate this matter with the Common Pleas Court in Clearfield, and has written numerous letters, as well as attempted other legal action, but, has been unsuccessful in said attempts. Defense counsel has as well requested said evidence repeatedly, but, have also been denied access to this very critical evidence.

RELIEF REQUESTED

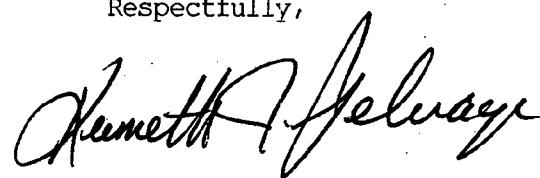
WHEREFORE, for the foregoing reasons this Honorable Court is requested respectfully to **GRANT** all or more of the following relief:

49. Plaintiff requests an immediate trial on all disputed facts in accordance with the rules of civil procedure;
50. Plaintiff requests the issuance of a Mandamus directing the Respondent to supply him with a certified copy of the Preliminary Hearing transcripts from hearing of June 16, 2000, in front of Honorable Magistrate Hawkins, magistrate docket number CR-67-00, common pleas docket number 00-424-CRA, for the Commonwealth's attorney, William Shaw, to produce the cassette tape recording for evidence and that the notes of testimony be transcribed forthwith and served upon the Plaintiff;

51. Plaintiff requests the issuance of a Mandamus directing the Respondent to supply him with a copy of the insurance check issued to Teresa Lynn Gates by Erie Insurance Exchange Company, Inc., with verification of the exact date the check was issued then subsequently cashed, which, said information is in the possession of the Clearfield PA State Police's Evidence Room; with evidence to be supplied forthwith;

52. Award Plaintiff damages in an amount in excess of \$10.000.00 for the Respondent's failure to perform their duty and an amount in excess of \$10.000.00 for their refusal to perform thier duty;
53. Award Plaintiff the costs of this civil action and all attorney fees, if any;
54. Award Plaintiff such other relief as would be right, just and equitable.

Respectfully,



Kenneth J. Selvage  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

Dated: 3-10-03

cc: file

V E R I F I C A T I O N

I, KENNETH JOHN SELVAGE, Plaintiff pro-se, do hereby verify that the facts set forth in the foregoing "Petition for Review" are true and correct to the best of my knowledge, information and belief, and any false statements made herein are made subject to the penalties of perjury, 18 Pa. C.S.A. Section 4904 of the Crimes Code, relating to unsworn falsification to authorities.

Dated: 3-10-03



Kenneth J. Selvage  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

cc: file

(EXHIBIT # 1)

Thomas M. Dickey, Esq.  
Attorney at Law  
312 Union Ave.  
Altoona, PA 16602

July 14, 2002

Re: Commonwealth v. Kenneth John Selvage  
Nos. 98-550 & 554-CRA, 99-727-CRA, 00-424-CRA

Dear Attorney Dickey:

I am directing this letter to your office in regards to the above-referenced case(s) respectfully requesting your attention to the following:

1. I have agreed to the Sentence Reduction to case(s) 99-727-CRA & 00-424-CRA, and have verified this with Judge Reilly a few days ago, but, I do not like this deal because if something bad happens I will lose my appeal rights, but, my greatest concern is obtaining my release so I may accept custody of my baby daughter. I will not agree to waiving any issues in regards to the insurance check issued to Teresa Gates for three (3) reasons: (A) this check can prove my innocence and be used to vacate my sentence; (B) this check will prove that she in fact lied to the authorities and committed perjury upon her testimony at the preliminary hearing against me and I wish to press criminal charges on her for that perjury; and (C) I do not wish to pay almost \$3000.00 restitution for a share of insurance money I never received and a crime I never committed. Please make sure that the Commonwealth is aware of this matter.

2. As to case(s) 98-550 & 554-CRA, these case(s) are filed to a separate PCRA petition and I wish to litigate these case(s) further, inwhich, I request your office to file a Brief in support of my PCRA petition as soon as possible. As your office has repeatedly stated to me, the Commonwealth has not filed adequate criminal information(s) under Pa.R.Crim.P. Rule 560, so these charges will be dismissed in the long run. I have sent your office case law regarding this matter and in fact have repeatedly requested a Brief be filed. Please advise the

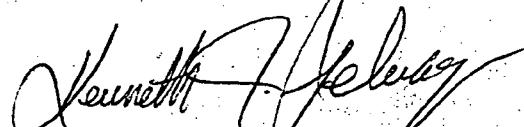
Commonwealth that I will continue to litigate my PCRA petition and by no means am waiving my rights to these case(s) - this is not part of the deal.

3. I request your office to take the necessary steps to obtain a copy of the insurance check issued to Teresa Gates as soon as possible. I need this check as part of my Discovery which I am entitled to, and I sincerely believe that the Commonwealth knowingly used perjured testimony to obtain a conviction or rather to have the Magistrate bound my case over for trial. I again state to you that I was under incarceration at Cambria County Prison from 9/21/98 til 12/11/98. I believe Teresa Gates received and cashed this check during my period of incarceration there. The only way to prove this is to obtain a copy of that check - I know that I was not present when she received or cashed said check, and I surely did not receive a share of that insurance money as she claims - what I did was lie to the police when questioned about the entire matter. I need this check a.s.a.p.

As I have stated to Judge Reilly in my letter of 7/12/02, I will agree to the sentence reduction to case(s) 99-727-CRA & 00-424-CRA, only because I have served my sentence for 98-550-CRA and for my charges in Cambria County, so this other sentence is detaining me and I am counting on that insurance check to get me back into court. I just do not appreciate the lengthy delay by your office as well as by CA Meholic in processing my case(s) through the Court, especially with the negative situation surrounding my child. I will fight my PCRA petition at 98-550 & 554-CRA and I have my Cambria County cases under legal litigation as well. Please take care of things for me and have the Court issue that Amended Sentencing Order a.s.a.p.

Thank you for your time and kind consideration in this matter, your prompt attention will be greatly appreciated.

Respectfully,



Kenneth J. Selvage

# DZ-4871

P.O. Box 1000

Houzdale, PA 16698-1000

cc: file

# Law Offices of Thomas M. Dickey

312 UNION AVENUE  
ALTOONA, PA 16602  
TELEPHONE 814-942-7544  
FAX 814-942-9180

THEODORE J. KROL, ASSOCIATE

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August 1, 2002

Kenneth J. Selvage  
#DZ-4871  
PO Box 1000  
Houtzdale, PA 16698-1000

Dear Ken:

Enclosed please find a copy of the letter I sent to Ms. Lettie also dated today enclosing a copy of the re-sentencing Order issued by Judge Reilly. I am enclosing a separate copy of the Order for your records.

Also, you will find enclosed a copy of the letter I faxed to the District Attorney's Office this morning making **another** request for the information on the insurance check. I am hoping that this request will be answered. If not, I will have to ask Attorney Dickey if there is another avenue to take in trying to obtain this information.

Thank you for your continued patience in this matter. As always, please feel free to contact me if you have any questions or if I can be of further assistance.

Very truly yours,

LAW OFFICES OF  
THOMAS M. DICKEY

*Mandy*

Mandy M. Wilt,  
Legal Secretary

Enclosures

# Law Offices of Thomas M. Dickey

312 UNION AVENUE  
ALTOONA, PA 16602  
TELEPHONE 814-942-7544  
FAX 814-942-9180

THEODORE J. KROL, ASSOCIATE

August 1, 2002

District Attorney's Office  
Cambria County Courthouse  
South Center Street  
Ebensburg, PA 15931

*via facsimile 472-7134*

 COPY

**RE: Commonwealth vs. Kenneth J. Selvage  
Docket No. 98-550 & 554-CRA, 99-727-CRA, 00-424-CRA  
P.C.R.A. Petitions**

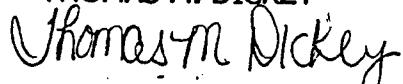
To the District Attorney:

As you are aware, this office represents Mr. Selvage relative to the above-captioned PCRA matters. There has been numerous requests made to your office by both Mr. Selvage and this office relative to information regarding the insurance check involved; specifically, the date the check was issued to Teresa Gates as well as the date the check was cashed. This information is a very important key in my client's case and I would request that you please provide this information to this office at your very earliest convenience.

Thank you, in advance, for your prompt attention to this matter. Please feel free to contact this office if you have any questions.

Very truly yours,

LAW OFFICES OF  
THOMAS M. DICKEY

  
Thomas M. Dickey

Thomas M. Dickey, Esquire

TMD/mmw

Cc: Kenneth J. Selvage

## Law Offices of Thomas M. Dickey

312 UNION AVENUE  
ALTOONA, PA 16602  
TELEPHONE 814-942-7544  
FAX 814-942-9180

THEODORE J. KROL, ASSOCIATE

---

August 7, 2002

Kenneth J. Selvage  
#DZ-4871  
PO Box 1000  
Houtzdale, PA 16698-1000

Dear Ken:

I was pleased to hear that you were satisfied with the Order issued by Judge Reilly. I believe that all copies have been sent to all agencies, etc.; however, if you need additional copies forwarded please let me know.

I know you also still desire a copy of the insurance check issued relative to your case. I have written and also contacted the District Attorney on numerous occasions and have never received a response to the same. I am forwarding a copy of this letter to Judge Reilly in order to advise him of your desire to obtain a copy of this item.

In light of the Order issued by Judge Reilly, my representation of you in this matter is complete. If you desire further legal assistance, you will have to ask the Court for continued representation. Although, I believe the Commonwealth will take the position that all further questions relative to your PCRA are moot. Once again, I am pleased that I was able to assist you in bringing this matter to a satisfactory conclusion. Take care and best wishes!

Very truly yours,

LAW OFFICES OF  
THOMAS M. DICKEY

*Thomas M. Dickey*

Thomas M. Dickey, Esquire

TMD/mmw

Cc: Honorable John K. Reilly, Jr.

DAVID C. MASON

Attorney at Law

409 NORTH FRONT STREET  
P.O. Box 28  
PHILIPSBURG, PENNSYLVANIA 16866  
(814) 342-2240  
FAX (814) 342-5318

October 23, 2002

Kenneth J. Selvage  
DZ 4871  
PO Box 1000  
Houtzdale, PA 16651

In RE: Commonwealth v. Selvage  
Nos. 99-727-CRA & 00-424-CRA

Hey Kenny:

I looked throughout your file and could not locate a copy of the check from the Insurance Company to Teresa Gates. Please let me know if I can do anything further.

Very truly yours,

MASON LAW OFFICE

  
David C. Mason

DCM/klb

DAVID C. MASON

Attorney at Law

409 NORTH FRONT STREET  
P.O. Box 28  
PHILIPSBURG, PENNSYLVANIA 16866  
(814) 342-2240  
FAX (814) 342-5318

February 6, 2003

Kenneth J. Selvage  
DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

Dear Kenny:

I am in receipt of your letter. I recognize that you are in a desperate situation, and I would certainly agree that you are entitled to parole. Nonetheless, I don't know that this case will provide you with any relief.

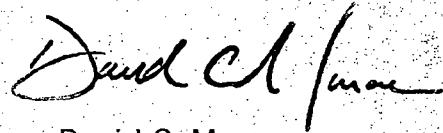
Note: Deleted Personal Information

With regard to the check, it is my understanding and recollection that she picked up the check at the insurance office in Philipsburg and she testified you were present. I don't know if I have a copy of that check or not. I have a box with your files in them and through the years things have been shuffled from one file to another, however, my secretary will keep looking.

I have done all I can do for you.

Very truly yours,

MASON LAW OFFICE



David C. Mason

DCM:blb  
Enclosure

**(EXHIBIT # 2)**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

KENNETH J. SELVAGE :  
VS : NO. 02-1277-CD  
COMMONWEALTH OF PENNSYLVANIA, :  
WILLIAM SHAW, JR. :  
:

O R D E R

NOW, this 17th day of September, 2002, upon consideration of Defendant's Pro Se Motion to Proceed in Form of Pauperis and to require the District Attorney's Office to supply him with a copy of a check relevant to the above-captioned proceeding; the Court being satisfied that said check is not within the possession of the District Attorney's Office, it is the ORDER of this Court that said Motions be and are hereby dismissed.

BY THE COURT,

*/s/ JOHN K. REILLY, JR.*

---

President Judge

I hereby certify this to be a true and attested copy of the original statement filed in this case.

SEP 20 2002

Attest.

*William L. Chen*  
Prothonotary/  
Clerk of Courts

(EXHIBIT # 1)

**(EXHIBIT # 3)**

Commander  
PA State Police  
Woodland Barracks  
147 Doe Hill Rd.  
Woodland, PA 16881

September 24, 2002.

**Re: EVIDENCE - INSURANCE CHECK ISSUED TO TERESA GATES**

Dear Commander:

I am directing this letter to your office in regards to the above-referenced matter respectfully requesting your attention to the following information:

Enclosed, please find copies of a Property Record Form issued by your Dept. as part as my Discovery Package, as well as, an ORDER from the Clearfield Court.

I am requesting a copy of the insurance check issued to Teresa Gates or verification as to when the check was issued the subsequently cashed by Ms. Gates. This information is relevant to case(s) 99-727-CRA & 00-424-CRA.

As stated by the enclosed ORDER, my Petition for Writ of Mandamus was dismissed due to the fact that the DA Office states that their office does not possess copy of said check and/or information. I am hoping that your Dept. can supply me with this material so I will not be forced to file another Mandamus Action with the Court to compel your Dept. to supply same.

The facts of this matter are that Ms. Gates was the Commonwealth's key witness against me, and, she made statements and testified at the preliminary hearing that I was present with her when she cashed said check - that I conspired to master-mind the entire crime, etc. It is my opinion that when Ms. Gates cashed said check, I was under incarceration at the Cambria County Prison (9/21/98 til 12/11/98), which, if is true, then Ms. Gates supplied the authorities with false infor-

Commander PA State Police, 9/24/02, page two

mation, then further, committed perjury at the preliminary hearing. I am requesting an investigation into this matter, and also, I plan to file a Private Criminal Complaint with the DA Office against Ms. Gates as soon as I obtain said information concerning the check. I feel that I received a miscarriage of justice in the handling of this entire criminal matter. I have been requesting this information since the date of my original arrest, but, no-one was willing to expose the truth to the matter. I feel that under the law, that I am entitled to obtain this very critical information.

Thank you for your time and kind consideration in this matter, your prompt attention will be greatly appreciated.

Respectfully,



Kenneth J. Selvage  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

cc: Judge Reilly  
DA Bill Shaw  
file

**PROPERTY RECORD**

4. STATUS <input checked="" type="checkbox"/> EVIDENCE <input type="checkbox"/> FOUND <input type="checkbox"/> RECOVERED <input type="checkbox"/> RECEIPT <input type="checkbox"/> OTHER		5. OFFENSE <input type="checkbox"/> ARSON		6. STATION/DISTRICT/OFFICE <b>CLEARFIELD / 1330</b>			
7. SUBMITTING OFFICER <b>TPR. MICHAEL P. GREENE</b> BADGE NO. <b>5873</b>		8. RECEIVING OFFICER <b>CIA 192134Z F. L. O. Y.</b> BADGE NO. <b>5873</b>		9. DATE <b>9/1/99</b> TIME <b>1330 hours</b>			
10. INVESTIGATING OFFICER <b>TPR. MICHAEL P. GREENE</b>		11. SIGNATURE OF RECEIVING OFFICER 					
12. FOUND OR RECOVERED FROM SIGNATURE <b>JOSEPH BUSICK</b>		ADDRESS <b>PHILLIPSBURG, PA</b>		13. DATE <b>9/1/99</b> TIME <b>1020 hours</b>			
14. CODES		STORAGE AREA 1. PROPERTY ROOM      3. EXPLOSIVE MAGAZINE 2. SAFETY DEPOSIT BOX      4. NON-DEPARTMENT		DISPOSITION 1. DESTROYED 2. ESCHEATABLE 3. EXPENDED IN LABORATORY 4. RELEASED TO OWNER/FINDER 5. DONATED			
15. ITEMS - (ONE ITEM PER LINE)		16. TYPE PROPERTY	17. CODE	18. QUANTITY	19. VALUE		
1. NUMEROUS PAPERS, RELATIVE TO PAY OUT FOR TERESA GATES CLAIM		<b>77</b>	<b>06</b>	<b>1</b>	N/A <b>1</b>		
2							
3							
4							
5							
6							
7							
8							
9							
10							
22. PROPERTY IN	23. OUT DATE & TIME	24. ITEM(S) NO.	25. OFFICER'S SIGNATURE - BADGE NO.	26. CUSTODIAL OFFICER'S INIT.	27. REMOVAL CODE & LOCATION	28. ESTIMATED DATE OF RETURN	29. COMPUTER ENTRY
I HEREBY CERTIFY THAT I AM THE OWNER OF PROPERTY OR AUTHORIZED AGENT TO RECEIVE ITEM(S) NO. 31. CLAIMANT'S NAME <b>JOSEPH BUSICK</b> OWNER'S NAME							
32. CLAIMANT'S SIGNATURE  OWNER'S SIGNATURE							
				ADDRESS	TELEPHONE NO.		
					DATE		

**(EXHIBIT # 4)**



JUDGE'S CHAMBERS  
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA  
CLEARFIELD COUNTY  
CLEARFIELD, PENNSYLVANIA 16830

JOHN K. REILLY, JR.  
PRESIDENT JUDGE

FREDRIC J. AMMERMANN  
JUDGE

January 15, 2003

Kenneth J. Selvage  
#DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

Dear Mr. Selvage:

This will acknowledge receipt of your letter of January 14, 2003, concerning a Petition for Writ of Mandamus. Before I will rule on it, I need to know the term and number to which it is filed.

Very truly yours,

JOHN K. REILLY, JR.  
President Judge

JKR/cjm

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION

COMMONWEALTH  
VS.  
KENNETH J. SELVAGE

: No. 2002-1904-CD

RULE RETURNABLE

AND NOW, this 9<sup>th</sup> day of January, 2003, upon  
consideration of the foregoing Petition filed by the Defendant, a rule is hereby  
issued on the Commonwealth to show cause, if any exists, why said Petition  
should not be granted.

14<sup>th</sup> Rule Returnable for answer and argument thereon to be held on the  
14 day of January, 2003, at 2:00 o'clock P. M. in  
Court Room No. 1 of the Clearfield County Courthouse, Clearfield, PA.

BY THE COURT,

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

/s/ JOHN K. REILLY, JR.

President Judge

JAN 13 2003

Attest.

*W. E. L. B.*  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

KENNETH JOHN SELVAGE

-vs- : No. 02-1904-CD

COMMONWEALTH OF PA, et al. :

O R D E R

NOW, this 14th day of January, 2003, this being the day and date set for argument on Defendant's Pro Se Petition to Proceed IFP and Defendant's Petition for Writ of Mandamus/Civil Action Complaint, it is the ORDER of this Court that the Defendant's Pro Se Petition to Proceed IFP be and is hereby dismissed pending the Defendant supplying the Court with a copy of the complaint that he intends to file.

It is the ORDER of this Court that the Defendant's Petition for Writ of Mandamus/Civil Action Complaint be and is hereby dismissed.

BY THE COURT,

/s/ JOHN K. REILLY, JR.

President Judge

I hereby certify this to be a true and attested copy of the original statement filed in this case.

JAN 17 2003

Attest,

*Wm. A. Reilly*  
Prothonotary/  
Clerk of Courts

William Shaw  
Prothonotary &  
Clerk of Courts  
County Courthouse  
P.O. Box 1000  
Clearfield, PA 16830

November 29, 2002

Re: KENNETH JOHN SELVAGE V. PSP SGT. GRAY & TPR. GREENE  
No. PETITION FOR WRIT OF MANDAMUS -  
CIVIL ACTION COMPLAINT

Dear Mr. Shaw:

I am directing this letter to your office in regards to the above-referenced matter respectfully requesting your attention to the following:

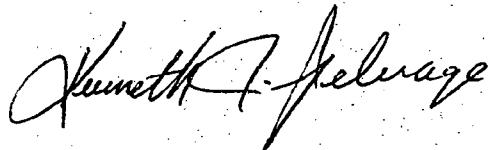
Enclosed, please find the original and three (3) copies of my Petition for Writ of Mandamus - Civil Action Complaint.

Enclosed, please find the original and two (2) copies of my Petition to Proceed In Forma Pauperis.

I request your office to time stamp and file these documents and forward to the Court for its disposition.

Thank you for your time and kind consideration in this matter, your prompt attention will be greatly appreciated.

Respectfully,



Kenneth J. Selvage  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

cc: file

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

KENNETH JOHN SELVAGE

v.

COMMONWEALTH OF PENNSYLVANIA,  
PENNSYLVANIA STATE POLICE  
SGT. MAYNARD H. GRAY, and  
TPR. MICHAEL P. GREENE

\*  
\*  
\* No.  
\*

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth against you in the following pages, YOU MUST enter a written appearance personally or by an attorney and file in writing your defense or objections to those claims within twenty (20) days after service of this notice and attached Civil Action Complaint in Mandamus. YOU ARE WARNED, that if you fail to do so the case will proceed without you and a judgment will be entered against you without further notice. You will lose rights, privileges and immunities important to you if you fail to take action.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE.  
IF YOU CANNOT AFFORD ONE GO TO OR TELEPHONE THE  
OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN  
GET LEGAL HELP.

David S. Meholick  
Court Administrator  
County Courthouse  
230 East Market Street  
Clearfield, PA 16830

(814) 765-2641, ext. 5982



Kenneth J. Selvage

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

KENNETH JOHN SELVAGE

v.

COMMONWEALTH OF PENNSYLVANIA,  
PENNSYLVANIA STATE POLICE  
SGT. MAYNARD H. GRAY, and  
TPR. MICHAEL P. GREENE

\* No.

PETITION FOR WRIT OF MANDAMUS  
CIVIL ACTION COMPLAINT

NOW COMES, Kenneth John Selvage, Plaintiff, acting as pro-se for himself, who, avers as follows in support thereof:

**INTRODUCTION**

1. Plaintiff commences this civil action complaint in mandamus to compel the Defendant to perform a mandatory administrative act, to supply critical evidence in the criminal case(s) at common pleas docket number(s) 99-727-CRA & 00-424-CRA, that was not supplied by the Commonwealth in the original Discovery Package.

**JURISDICTION**

2. This Court has original jurisdiction over this civil action pursuant to 42 Pa. C.S.A. Section 931, therefore the authority to grant all relief found right, just and equitable.

**PARTIES**

3. Plaintiff, Kenneth John Selvage, is a citizen of the United States and of the Commonwealth of Pennsylvania with his present address being c/o Institutional Number DZ-4871, P.O. Box 1000, Houtzdale, PA 16698-1000.

PROOF OF SERVICE

I, Kenneth John Selvage, Plaintiff, hereby certify that I am this date serving a copy of the foregoing document upon the person(s) and in the manner indicated below:

Service by first class mail, postage pre-paid:

Sgt. Maynard H. Gray  
Acting Station Commander  
Troop C, Clearfield  
PSP Woodland Barracks  
147 Doe Hill Road  
Woodland, PA 16881

Trooper Michael P. Greene  
Troop C, Clearfield  
PSP Woodland Barracks  
147 Doe Hill Road  
Woodland, PA 16881

Honorable John K. Reilly, Jr.  
President Judge  
County Courthouse  
230 East Market Street  
Clearfield, Pa. 16830

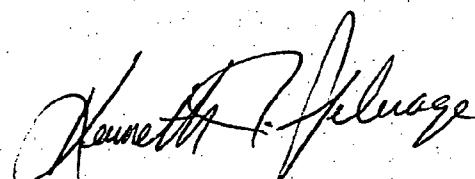
William "Bill" Shaw  
Assistant District Attorney  
230 East Market Street  
County Courthouse  
Clearfield, PA 16830

Michael Fisher, Esq.  
Office of the Attorney General  
15th Floor Strawberry Square  
Harrisburg, PA 17102

Investigator Richard Runstedler  
Erie Insurance Company  
100 Erie Insurance Place  
Erie, PA 16530

Dated: November 29, 2002

cc: file



Kenneth J. Selvage  
#DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

Honorable John K. Reilly, Jr.  
President Judge  
County Courthouse  
230 East Market St.  
Clearfield, PA 16830

January 14, 2003

Re: KENNETH JOHN SELVAGE V. PA STATE POLICE GRAY & GREENE  
Petition for Writ of Mandamus - Civil Complaint

Dear Judge Reilly:

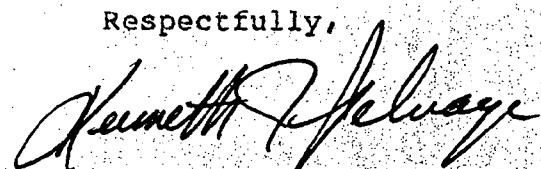
I am directing this letter to your office in regards to the above referenced matter respectfully requesting your attention to the following concern I have:

On or about November 29, 2002, I filed with the Prothonotary's Office the above-referenced Mandamus along with a Petition to Proceed I.F.P., but to date, I have received no kind of response from this Court as to the disposition of my Mandamus. I have written to you on atleast three (3) separate occasions and to CA Meholic several times about this matter, but, no-one wishes to address my Mandamus, which makes me feel that I am being denied 'due process' to your Court for unjustified reasons.

I am asking for your decision in this matter forthwith to either grant my Mandamus and ORDER the State Police to supply me with a copy of that insurance check, or, deny my Mandamus so I may file a Petition for Review with the Commonwealth Court in Harrisburg. There is no reason to be denied adequate access to your Court over and over again.

Thank you for your time and kind consideration in this MATter, your prompt attention will be greatly appreciated.

Respectfully,



Kenneth J. Selvage  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

cc; file

Honorable John K. Reilly, Jr.  
President Judge  
County Courthouse  
230 East Market Street  
Clearfield, PA 16830

January 23, 2003

Re: KENNETH JOHN SELVAGE V. COMMONWEALTH OF PENNSYLVANIA, et al.  
No. 02-1904-CD

Dear Judge Reilly:

I am directing this letter to your office in regards to the above-referenced matter respectfully requesting your attention to the following information and concerns I have:

1. Enclosed, please find a copy of the ORDER I received today from Clerk Shaw in which I do not understand what is going on or the meaning in this Court Order due to the fact that I served a copy of this Mandamus upon you and five (5) others (see proof of service) and sent the original and three (3) copies of the Mandamus, and the original and two (2) copies of my petition to proceed I.F.P. to the Clerk of Courts Shaw, but, received all of the enclosed material back in todays mail without any action being taken; and further, this Court Order stating that the Court dismissed I.F.P. petition until the Defendant supplying the Court with a copy of the Complaint that he intends to file. I am the Plaintiff in this matter not the Defendant so I do not understand what is going on here or why this Court has issued such an ORDER when I did supply your office with copy of my Mandamus as well as five (5) others, then sent the Clerk of Courts the enclosed material. Exactly WHAT does this Court want or expect from me in this matter?

2. I would ask that this Court review the enclosed material, then to either forward back to the Clerk of Courts for filing with an ORDER to rescind the enclosed ORDER and render its decision, OR, send the enclosed material back to me with a letter of this Court's full understanding of this matter so I may file a Petition for Review to the Commonwealth Court in Harrisburg.

Judge Reilly, 1/23/03, page 2

3. Be advised that I am poor and cannot afford to keep photo coping all this material or pay for repeated postage - I feel I followed the Rules of Court and filed the necessary documents with proof of service in this matter; and I believe that some-one has a misunderstanding of what's going on here, so, I respectfully request that this Court straighten things out and advise me of its decision as soon as possible.

Thank you for your time and kind consideration in this matter, your prompt attention/decision will be greatly appreciated.

Respectfully,



Kenneth J. Selvage  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

cc: file

(EXHIBIT # 5)



## OFFICE OF THE DISTRICT ATTORNEY

OF CLEARFIELD COUNTY  
SUITE 210  
230 EAST MARKET STREET  
CLEARFIELD, PENNSYLVANIA 16830

**PAUL E. CHERRY**

District Attorney  
Phone: (814)765-2641

**WILLIAM A. SHAW, JR.**

First Assistant  
District Attorney

January 31, 2003

Kenneth John Selvage  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

RE: Kenneth John Selvage vs. Teresa Lynn Gates

Dear Mr. Selvage:

Enclosed please find the Private Criminal Complaint completed by yourself naming Teresa Lynn Gates as the Defendant. Please be advised the District Attorney has disapproved the complaint. I need transcripts to examine to determine if facts alleged are true.

If you have any questions, please contact the Office of the District Attorney.

Very truly yours,

A handwritten signature in black ink that reads "Paul E. Cherry". The signature is fluid and cursive, with "Paul" and "E." being more formal and "Cherry" being more flowing.

Paul E. Cherry, Esquire  
District Attorney

PEC/sj  
enclosure

COUNTY OF CLEARFIELD

Magisterial District Number

46-3-04

District Justice Name Hon. JAMES HAWKINSAddress 430 SPRING STREET  
HOUTZDALE, PA 16651Telephone: ( 814-378-7160 )

Docket No.:

Date Filed:

OTN:

(Above to be completed by court personnel)

PRIVATE  
CRIMINAL COMPLAINT

COMMONWEALTH OF PENNSYLVANIA

VS.

## DEFENDANT:

NAME and ADDRESS

TERESA LYNN GATES  
P.O. BOX 41  
SMITHMILL, PA 16680

(Fill in defendant's name and address)

**Notice:** Under PA Rules of Criminal Procedure, your complaint may require approval by the District Attorney before it can be accepted by the magisterial district court. If the District Attorney disapproves your complaint, you may petition the court of common pleas for review of the District Attorney's decision.

Fill in as much information as you have.

Defendant's Race/Ethnicity <input checked="" type="checkbox"/> White <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Native American <input type="checkbox"/> Unknown	Defendant's Sex <input checked="" type="checkbox"/> Female <input type="checkbox"/> Male	Defendant's D.O.B. <u>6/18/67</u>	Defendant's Social Security Number <u>192-64-3278</u>	Defendant's SID (State Identification Number)
--	---	--------------------------------------	--	---

Defendant's A.K.A. (also known as)	Defendant's Vehicle Information Plate Number	State	Registration Sticker(MM/YY)	Defendant's Driver's License Number State <u>PA 21749648</u>
------------------------------------	---	-------	-----------------------------	--

I, KENNETH JOHN SELVAGE, DZ-4871, P.O. BOX 1000, HOUTZDALE, PA 16698-1000

(Name of Complainant - Please Print or Type)

do hereby state: (check the appropriate box)

1.  I accuse the above named defendant who lives at the address set forth above  
 I accuse the defendant whose name is unknown to me but who is described as \_\_\_\_\_

I accuse the defendant whose name and popular designation or nickname is unknown to me and whom I have therefore designated as John Doe

with violating the penal laws of the Commonwealth of Pennsylvania at SCI HOUTZDALE and UPON HER

(Place-Political Subdivision)

## STATEMENTS TO AUTHORITIES

in CLEARFIELD County on or about AUGUST 5, 1999 thru JUNE 16, 2000Participants were: (if there were participants, place their names here, repeating the name of above defendant)  
TERESA LYNN GATES

2. The acts committed by the accused were:

(Set forth a summary of the facts sufficient to advise the defendant of the nature of the offense charged. A citation to the statute allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section and subsection of the statute or ordinance allegedly violated)

**PERJURY - 18 Pa.C.S.A. §4902 (F-3) - Existing law defines perjury as wilfully and corruptly making false oral or written statements, or testimony upon oath or affirmation, legally administered. The elements of perjury are an oath to tell the truth, administration of the oath by legal authority in a judicial proceeding or statutory affidavit and wilfully false and material testimony by defendant in such proceeding.**

PRIVATE  
CRIMINAL COMPLAINT



Defendant's Name: **TERESA LYNN GATES**

Docket Number:

(a) Offense Defined. - A person is guilty of perjury, a felony of the third degree, if in any official proceeding he/she makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of a statement previously made, when statement is material and he/she does not believe it to be true.

This is in violation of Section 4902 (a) of the Pennsylvania crimes code, act of December 6, 1972, 18 Pa.C.S. Section 4902 (a).

all of which were against the peace and dignity of the Commonwealth of Pennsylvania and contrary to the Act of Assembly, or in violation of 4902 (Section) and (a) (Subsection) of the 18 Pa. C.S.A. (PA Statute)

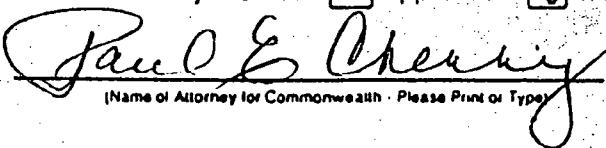
3. I ask that process be issued and that the defendant be required to answer the charges I have made.
4. I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. §4904) relating to unsworn falsification to authorities.

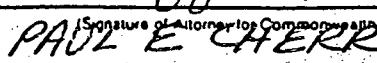
December 19, 2002

  
Kenneth J. Selvage  
(Signature of Complainant)

District Attorney's Office  Approved  Disapproved because:

Need transcripts  
to examine to determine  
if facts alleged are true

  
Paul E. Cherry  
(Name of Attorney for Commonwealth - Please Print or Type)

  
PAUL E. CHERRY  
(Signature of Attorney for Commonwealth)

1/2/03  
(Date)

AND NOW, on this date 19 19, I certify that the complaint has been properly completed and verified.

SEAL

(Magisterial District)

(Issuing Authority)

DEFENDANT'S  
NAME: Teresa Lynn Gates

PRIVATE CRIMINAL  
COMPLAINT

DOCKET NUMBER:

AFFADAVIT of PROBABLE CAUSE

The information set forth in this Affadavit of Probable Cause is that of **KENNETH JOHN SELVAGE**, who, is the victim and witness to the entire matter:

That the crime(s) of Insurance Fraud/Conspiracy to Commit Insurance Fraud and Conspiracy to Commit Arson was brought against this Complainant due to the statements and testimony made by the Defendant in this matter (99-727-CRA & 00-424-CRA) where the Defendant claimed that the Complainant master-minded the entire crime and was present to receive a share of the insurance money when Defendant cashed the insurance check.

Throughout the entire litigation/investigation of this matter the Defendant repeatedly made false statements to the authorities by lying and changing her story as evidenced in the Discovery Package.

That during the Preliminary Hearing of June 16, 2000, the Commonwealth produced two (2) witnesses to testify against Complainant: (1) Teresa Lynn Gates; and (2) Robert Scott Martin. (Note: Martin took the 5th Amendment and refused to testify).

That Commonwealth witness, Teresa Lynn Gates, testified under OATH that Complainant in fact conspired to commit the crimes of Insurance Fraud, Conspiracy to Commit Insurance Fraud and Conspiracy to Commit Arson, also, that when she cashed the insurance check that: "Kenny was present when I cashed the check, standing there with his hand out wanting a share of the insurance money for his part in the crime." This testimony was recorded by DA Bill Shaw on 6/16/00.

Complainant asserts that he was under incarceration at the Cambria County Prison, Ebensburg, PA, from September 21, 1998 until December 11, 1998.

Complainant asserts that Teresa Lynn Gates, Defendant, received and cashed said insurance check during this period of incarceration, which, therefore, she would have committed perjury upon her testimony that Complainant was present when she indeed cashed the check, and further, that she lied in all other statements to authorities in regards to any involvement by Complainant in said crimes.

DEFENDANT'S  
NAME: Teresa Lynn Gates

PRIVATE CRIMINAL  
COMPLAINT

DOCKET NUMBER:

**AFFADAVIT of PROBABLE CAUSE CON'T:**

The Preliminary Hearing was held at the SCI Houtzdale Prison on June 16, 2000, in front of District Justice James Hawkins, with DA Bill Shaw and Trooper Michael Greene for the Commonwealth, and David C. Mason, Esq., for the Complainant.

Due to the above information, I respectfully request that the Defendant be charged with the following crime:

PERJURY - 18 Pa. C.S.A. §4902 (F-3) (a).

Verification

I, Kenneth John Selvage, Complainant, do hereby verify that the facts set forth in this document are true and correct to the best of my personal knowledge, information and belief, and any false statement made herein are subject to the penalties of Section 4904 of the Crimes Code (18 Pa. C.S. §4904), relating to unsworn falsification to the authorities.

Dated: December 19, 2002

  
Kenneth J. Selvage  
Complainant  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

cc: Judge Reilly  
file

**(EXHIBIT # 6)**

Honorable John K. Reilly, Jr.  
President Judge  
County Courthouse  
230 East Market Street  
Clearfield, PA 16830

February 5, 2003

Re: COMMONWEALTH V. KENNETH JOHN SELVAGE  
Nos. 99-727-CRA, 00-424-CRA

Dear Judge Reilly:

I am directing this letter to your office in regards to the above referenced matter respectfully requesting your attention to the following information.

Enclosed, please find a copy of the letter I received from DA Paul Cherry in regards to the Private Criminal Complaint I filed with his office where he has stated that his office needs the Preliminary Hearing Transcripts of June 16, 2000, in order to determine whether said crime was committed - I have forwarded copy of my Private Criminal Complaint to your office on 12/19/02.

It is evident by DA Cherry's letter of 1/31/03 that the insurance check proves that I was under incarceration at the Cambria County Prison from 9/21/98 - 12/11/98 when Teresa Gates cashed said check and the Preliminary Hearing Transcripts are needed to prove that she committed perjury upon her sworn testimony against me on 6/16/00 in front of Magistrate Hawkins; DA Shaw; Trooper Greene and Attorney Mason, stating that I was present when she cashed the check and received share of same for my part in the crime. This perjured testimony was used to bound my case over for trial and I do believe that the Commonwealth knew she was lying, and further, knew I was in jail in Cambria County due to the documents I have from the Commonwealth where it tried to Revoke my Bail due to said incarceration.

During the Preliminary Hearing of 6/16/00, DA Shaw in fact recorded the entire testimony of this matter on a cassette tape - Attorney Mason can verify this as well as verify the facts to her testimony, even testify to the entire matter, so, the Commonwealth cannot state the tape was lost or it does not remember said testimony. Attorney Mason made a big issue out of the fact that I was under incarceration at the time the check was cashed.

I am requesting that this Court direct DA Shaw to produce said cassette tape for

Judge Reilly, 2/5/03, page two

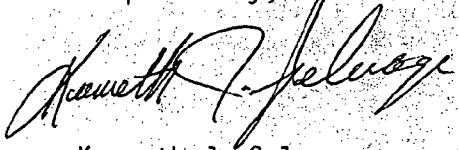
evidence and that the notes of testimony be prepared from said tape forthwith with copies served upon this Court, DA Cherry and myself. Be advised that I am unable to file any documents pro-se due to the situation with Attorney Dickey, where, I do believe this Court refuses to settle this matter of ineffective counsel in order to keep me from litigating my case(s).

I am asking to receive fair and impartial justice in this entire matter because the Commonwealth's key witness, Teresa Gates, in fact knowingly committed perjury against me in order to receive a probationary sentence, and to supply the Commonwealth with enough false evidence to convict me for a crime I am innocent of, inwhich, is not right when this matter has been attempted to be covered up by the Commonwealth and Defense Counsel. No-one wishes to expose the truth to this matter to produce copy of the insurance check and Preliminary Hearing Transcripts. Teresa Gates deserves to have criminal charges of perjury and false reports to authorities brought against her for committing these crime(s) as well as getting off with probation for her part in the original crime(s). These charges must be dismissed and sentence(s) vacated against me due to the fact that I am innocent and the Commonwealth used perjured testimony in order to convict me. I would request a hearing on this matter forthwith.

If I do not receive your prompt response, then my next letter will be to the Governor, Ed Rendell, to explain my entire situation and request his office to get this matter settled. I plan to send said correspondence to State Representative, Camille "Bud" George, requesting his office to forward to the Governor for a full investigation into this matter. I do not wish to take these kind of steps, but, the way things are due to the prejudice I have received as well as all the constitutional violations against me, I will have no choice. I feel that this matter has been delayed and drug out for too long and only wish to expose the truth and be released.

Thank you for your time and kind consideration in this matter, your prompt attention is requested and will be appreciated.

Respectfully,



Kenneth J. Selvage  
# DZ-4871

P.O. Box 1000  
Houtzdale, PA 16698-1000

cc: DA Shaw

file

Honorable John K. Reilly, Jr.,  
President Judge  
County Courthouse  
230 East Market Street  
Clearfield, PA 16830

February 25, 2003

Re: COMMONWEALTH V. KENNETH JOHN SELVAGE  
Nos. 99-727-CRA & 00-424-CRA

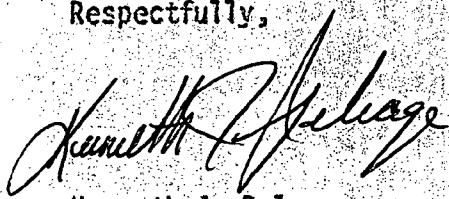
Dear Judge Reilly:

Enclosed, please find a copy of the letter I recently received from DA Paul Cherry concerning the perjured testimony against me by co-defendant and Commonwealth's key witness, Teresa Gates. I have written to you previously about this matter on February 5, 2003, but I have not received any kind of response to same.

I wanted to ask the Court to direct DA Shaw to produce the cassette tape from the Preliminary hearing of June 16, 2000, magistrate # CR-67-00 / common pleas # 00-424-CRA, and have the notes of testimony transcribed so they may be submitted to DA Cherry for examination of the true facts to this matter. I wish to press criminal charges against Teresa Gates for perjury and false reports to authorities, also I am in dire need of these transcripts along with a copy of the insurance check issued to Ms. Gates to prove my innocence of said crimes. I would figure that you being a President Judge that you would like to see fair justice rendered in this matter. I am again requesting this Court to take action in this matter.

Thank you for your time and kind consideration, your prompt attention will be greatly appreciated.

Respectfully,



Kenneth J. Selvage  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

cc: file

(EXHIBIT #7)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CRIMINAL DIVISION)

COMMONWEALTH OF PENNSYLVANIA

v.

No. 98-550-CRA  
No. 98-554-CRA

KENNETH JOHN SELVAGE

**PETITION TO REVOKE BAIL**

NOW, comes the Commonwealth of Pennsylvania, by and through Stacy R. Parks, First Assistant District Attorney of Clearfield County and files a Petition to Revoke Bail as follows:

1. Defendant, Kenneth John Selvage was charged by Corporal Greg Neeper of the Clearfield Borough Police on July 6, 1998, with the offenses of Fleeing or Attempting to Elude a Police Officer (M2) and various summaries.
2. On July 15, 1998, a preliminary hearing was held before District Justice Richard A. Ireland with the above charges being held to Court following hearing, at No. 98-550-CRA. Bail was set at \$10,000 unsecured.
3. As a condition of bail, Defendant was to refrain from any further criminal activity. (See Exhibit "A").
4. Defendant, Kenneth John Selvage, was charged by Trooper Douglas Clark of the Pennsylvania State Police, Woodland Barracks, on July 7, 1998, with the offenses of Aggravated Assault, (F1), Recklessly Endangering Another Person (M2), and Criminal Mischief (M3).
5. On July 15, 1998, a preliminary hearing was held before District Justice Richard A. Ireland with the above charges being held to Court following hearing, at No. 98-554-CRA. Bail was set at \$50,000 straight.

I hereby certify this to be a true and attested copy of the original  
state: *Commonwealth of Pennsylvania* at 12:00 p.m.

OCT 27 1998

Attest

6. On July 20, 1998, Defendant posted bail on the criminal case at 98-554-CRA. As a condition of release on bail, Defendant was to refrain from any further criminal activity. (See Exhibit "B").

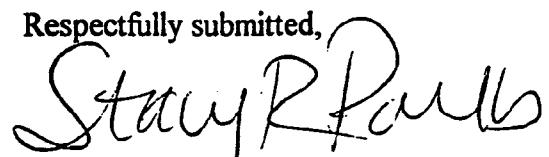
7. On September 21, 1998, Defendant, Kenneth John Selvage was charged by Trooper James T. Williams of the Pennsylvania State Police, Ebensburg Barracks, with the offense of Escape (F3) following an arrest and detention for Burglary (F1), for escaping police custody during the arrest. On September 30, 1998, following a preliminary hearing before District Justice Charity Nileski in Cambria County, all charges were held to Court. Bail was set at \$50,000 straight.

8. These new charges are a violation of the bail conditions imposed at No. 98-550-CRA and No. 98-554-CRA.

9. In addition, Defendant has pending various other charges: Recklessly Endangering (M2), Simple Assault (M2), Criminal Mischief (summary) and Disorderly Conduct (summary) with Trooper Hofer, Pennsylvania State Police, Ebensburg Barracks, and Driving Under the Influence (M2) with Trooper Joel Penapzer, Pennsylvania State Police, Ebensburg Barracks. Those cases are currently awaiting preliminary hearing dates. Burglary charges may also be filed in connection with the Escape.

WHEREFORE, the Commonwealth respectfully requests that this Honorable Court revoke Defendant's bail and that he be remanded to the Clearfield County Jail.

Respectfully submitted,

  
Stacy R. Parks  
First Assistant District Attorney

PROOF OF SERVICE

I, KENNETH JOHN SELVAGE, Plaintiff pro-se, hereby certifies that I am this date serving a copy of the foregoing "Petition for Review" upon the person(s) and in the manner indicated below:

Service by first class mail, postage pre-paid:

Paul E. Cherry, Esq.  
District Attorney  
Suite 210  
230 East Market Street  
Clearfield, PA 16830

Trooper Michael P. Greene  
Troop C, Clearfield  
PSP Woodland Barracks  
147 Doe Hill Road  
Woodland, PA 16881

Michael Fisher, Esq.  
Office of the Attorney General  
15th Floor Strawberry Square  
Harrisburg, PA 17102

Honorable John K. Reilly, Jr.  
President Judge  
County Courthouse  
230 East Market Street  
Clearfield, PA 16830

Dated: 3-10-03



Kenneth J. Selvage  
# DZ-4871  
P.O. Box 1000  
Houtzdale, PA 16698-1000

cc: file

RECEIVED & FILED  
COMMONWEALTH COURT  
OF PENNSYLVANIA

2003 MAR 12 A 8:57

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

KENNETH JOHN SELVAGE : :

-vs- : No. 03 - 551 - CD

COMMONWEALTH OF PENNSYLVANIA:

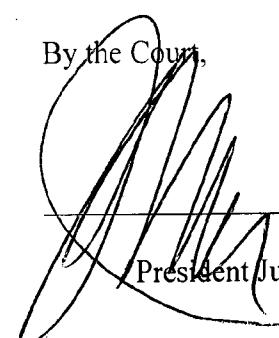
PAUL E. CHERRY, DISTRICT : :

ATTORNEY, MICHAEL P. GREENE, : :

STATE POLICE : :

**ORDER**

NOW, this 21<sup>st</sup> day of August, 2003, upon consideration of Plaintiff's Motion for Reconsideration of IFP Petition, it is the ORDER of this Court that said Motion be and is hereby denied.

By the Court,  
  
President Judge

**FILED**

AUG 21 2003

William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

rec  
013008  
Pff-

AUG 2 1 2003

DZ-4871

William A. Shaw

Prothonotary/Clerk of Courts

10 Box 1000

10 Box 1000  
Harrisburg, PA 17105-1000

rec

10 Box 1000  
Harrisburg, PA 17105-1000

CCOPY

August 21, 2003

Kenneth John Selvage  
DZ-4871  
PO Box 1000  
Houtzdale, PA 16651

RE: IFP Petition, case transferred from Commonwealth Court of PA  
03-551-CD

Dear Mr. Selvage:

Please be advised that your Petition to Proceed In Forma Pauperis in the above case has been denied by the Court.

You may proceed with this action by submitting the \$85.00 filing fee with this office.

A certified copy of the Court's Order is enclosed. According to the Rules of Civil Procedure, the Prothonotary's Office may strike your filing if payment is not received in full within ten (10) working days from the date of this letter.

Sincerely,

William A. Shaw  
Prothonotary/Clerk of Courts

Enclosures

OFFICE OF PROTHONOTARY AND CLERK OF COURTS

WILLIAM A. SHAW

PROTHONOTARY  
AND  
CLERK OF COURT

JACQUELINE KENDRICK

DEPUTY PROTHONOTARY

CLEARFIELD COUNTY



DAVID S. AMMERMAN

SOLICITOR

P.O. Box 549  
CLEARFIELD, PENNSYLVANIA 16830  
(814) 765-2641 Ext. 1330  
FAX(814)-765-7659

September 4, 2003

COPY

03-551-CD

Kenneth John Selvage vs. Comm. of PA.; Paul E. Cherry, District Attorney;  
Michael P. Greene, State Police

DEAR Mr. Selvage:

Please be advised that the action you filed to the above term and number has been stricken effective **September 4, 2003**. You may not proceed with this action without good cause from the court.

---

William A. Shaw, Prothonotary

Date: 09/04/2003

**Clearfield County Court of Common Pleas**

User: BHUDSON

Time: 09:16 AM

**ROA Report**

Page 1 of 1

Case: 2003-00551-CD

Current Judge: No Judge

Kenneth John Selvage vs. Commonwealth of Pennsylvania

Civil Other

Date	Judge
04/14/2003	No Judge
	Filing: IFP Petition (Civil Complaint) Paid by: Selvage, Kenneth John (plaintiff) Receipt number: 1858669 Dated: 04/14/2003 Amount: \$0.00 (Cash) No Cert. Copies. (IFP with complaint to C/A)
	Order from Commonwealth Court, filed NOW, March 17, 2003, this matter is transferred to Court of Common Pleas of Clearfield County. Per Curiam
	Contents of Original Record with certificated. Copy to Commonwealth Court.
	Miscellaneous Docket Sheet from Commonwealth Court Dkt. # 172 MD 2003, filed. no copies.
08/20/2003	No Judge
	Motion for Reconsideration of I.F.P. Petition, filed by Plaintiff. No Cert. Copies.
08/21/2003	No Judge
	ORDER, NOW, this 21st day of August, 2003, re: Motion For Reconsideration of IFP Petition is DENIED. by the Court, s/JKR,JR.,P.J. 2 cc Plff
09/04/2003	No Judge
	CASE STRICKEN. Letter mailed to Kenneth Selvage notifying him of same.